

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noemi Martin	Team: Team # 5	CCRB Case #: 201001377	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/12/2010 11:50 PM	Location of Incident: West 181st Street and Wadsworth Avenue	Precinct: 34	18 Mo. SOL 7/12/2011	EO SOL 7/12/2011	
Date/Time CV Reported Wed, 01/13/2010 1:48 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/29/2010 2:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Landusky	16951	936908	PBMN TF
2. POM Miroslav Maric	10128	932957	PBMN TF
3. SGT Gregory Pekera	04870	919546	PBMN TF

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Gregory Pekera	Force: Sgt. Gregory Pekera pointed his gun at § 87(2)(b)	
C.POM Jason Landusky	Force: PO Jason Landusky used physical force against § 87(2)(b)	
D.SGT Gregory Pekera	Force: Sgt. Gregory Pekera used physical force against § 87(2)(b)	
E.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
F.POM Jason Landusky	Abuse: PO Jason Landusky searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(2)(g), § 87(4-b)		

### Case Summary

On January 13, 2010, § 87(2)(b) filed this complaint with IAB, where it received Log Number 10-04756 (encl. 7A-7B). On January 29, 2010, IAB referred the complaint to the CCRB (encl. 8A-8B).

On January 12, 2010, § 87(2)(b) and § 87(2)(b) were pulled over by Sgt. Gregory Pekera, PO Jason Landusky, and PO Miroslav Maric of Patrol Borough Manhattan North Task Force. The following allegations resulted:

- **Allegation A-Abuse of Authority:** Sgt. Gregory Pekera supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) [REDACTED]
- **Allegation B-Force:** Sgt. Gregory Pekera pointed his gun at § 87(2)(b) § 87(2)(g) [REDACTED]
- **Allegation C-Force:** PO Jason Landusky used physical force against § 87(2)(b) § 87(2)(g) [REDACTED]
- **Allegation D-Force:** Sgt. Gregory Pekera used physical force against § 87(2)(b) § 87(2)(g) [REDACTED]
- **Allegation E-Abuse of Authority:** Sgt. Gregory Pekera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) [REDACTED]
- **Allegation F-Abuse of Authority:** PO Jason Landusky searched the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) [REDACTED]
- § 87(2)(g), § 87(4-b) [REDACTED]

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) at § 87(2)(b) *Hispanic male, is 5'6" tall, weighs 150 pounds, and has black hair and brown eyes.* § 87(2)(b)

#### CCRB Testimony

On February 2, 2010, § 87(2)(b) provided the CCRB with a telephone statement (encl. 9). On February 25, 2010 (encl. 10A-10E), § 87(2)(b) was interviewed and on September 2, 2010, a photo array was conducted (encl. 13A-13J). All of his statements were § 87(2)(g) provided in Spanish. § 87(2)(b) mainly speaks Spanish, but he understands and speaks minimal English.

On January 12, 2010, at approximately 11:00 p.m., § 87(2)(b) went to pick up his nephew, § 87(2)(b) in the vicinity of West 170<sup>th</sup> Street and University Place in the Bronx. § 87(2)(b) is the owner of a black 2003 Chevy Impala with plate # § 87(2)(b). The men decided to have dinner at the International Buffet restaurant, which is located on Broadway and Dyckman Street in Manhattan. At approximately 11:50 p.m., as they approach West 181<sup>st</sup> Street and Wadsworth Avenue in Manhattan, an unmarked black Ford police vehicle pulled them over with their lights on. § 87(2)(b) immediately tried to pull over, but there was a bus in front of him, so § 87(2)(b) waited for the bus to leave before pulling over on the corner of West 181<sup>st</sup> Street and Broadway. The police vehicle pulled up behind his car and three plainclothes officers exited the vehicle. § 87(2)(b) lowered his windows for the officers, but left his engine running. One of the officers approached the driver's side with his gun pointed. § 87(2)(b) described this officer as a white male, 5'6"-5'7" tall, 165 pounds, light eyes, chubby build, and had a light beard. § 87(2)(b) believed this officer was the driver of the police vehicle. This investigation identified this officer as Sgt. Gregory Pekera.

§ 87(2)(b) felt threatened and raised both hands up in the air and said "tranquilo" (Spanish for calm down). The other two officers stood off to the side with their hands on their holstered guns. Sgt. Pekera continued pointing the gun at § 87(2)(b)'s chest and yelled at § 87(2)(b) to turn off the car. § 87(2)(b) complied and repeated, "What's going on," in Spanish. § 87(2)(b) denied that he committed any vehicle infraction or used drugs or alcohol before the incident. Sgt. Pekera said that he did not speak Spanish and requested his documents. § 87(2)(b) provided his license and registration. At the same time, the second officer described as a white male, with a slim build, was talking to § 87(2)(b). The investigation identified him as PO Landusky. § 87(2)(b) became agitated, but § 87(2)(b) could not describe what he was saying or doing. PO Landusky grabbed § 87(2)(b) and dragged him out of the car. PO Landusky placed § 87(2)(b) head against the car roof, with his head turn sideways and his hands behind his back. § 87(2)(b) was not handcuffed. Sgt. Pekera then opened the car door and yelled at § 87(2)(b) to get out. § 87(2)(b) tried to explain that he recently had knee surgery and had to exit slowly. Sgt. Pekera told him to, "Shut up" and repeatedly yelled at him to exit the car. Sgt. Pekera grabbed § 87(2)(b)'s left shoulder and pulled him out of the car.

Sgt. Pekera then went inside the car and removed the car keys from the center console. Sgt. Pekera escorted § 87(2)(b) to stand by the rear of his car, where he remained standing with the third officer and § 87(2)(b). § 87(2)(b) described the third officer as a white male, with a heavyset build, and tried to speak Spanish. This investigation identified this officer as PO Maric. Sgt. Pekera walked to the police vehicle to run § 87(2)(b)'s name, while PO Landusky searched § 87(2)(b)'s car. § 87(2)(b) saw PO Landusky rummaging through the car's front and back seats with a flashlight. § 87(2)(b) had papers regarding his business lying on top of the backseat and saw the officer looking through them. Sgt. Pekera returned minutes later and told the men that they could get back inside the car. Once inside the car, § 87(2)(b) saw that the papers that he had on the seats were all disheveled. As § 87(2)(b) waited for the officers, he saw Sgt. Pekera open the trunk using the car key. Sgt. Pekera did not remove anything from the trunk and returned the car key and documents to § 87(2)(b). The officers left the scene without issuing the men a summons or arresting them.

§ 87(2)(b) drove off, and shortly after, he saw that the \$1300 he had tucked under the center console was missing. § 87(2)(b) explained that he had \$1300 rolled up in twenty dollar bills and tied up with a rubber band hidden, because he was on his way to deposit the money at an ATM. § 87(2)(b) further explained that this money was for his business and that he always carries loose cash because he does not have good credit. § 87(2)(g)

**Victim:** § 87(2)(b)

- § 87(2)(b) a § 87(2)(b) Hispanic male, is 5'8" tall, weighs 140 pounds, and has black hair and brown eyes. § 87(2)(b)

**CCRB Testimony:**

On February 4, 2010, § 87(2)(b) provided the CCRB with a telephone statement (encl. 11). On February 25, 2010 (encl. 12A-12D), § 87(2)(b) was interviewed and on September 2, 2010, a photo array was conducted (encl. 11A-11J). All statements were provided in Spanish. § 87(2)(g)

An officer described as a white male, 5'8"-5'9" tall, medium/stocky build, approached the driver's side with his gun pointed at § 87(2)(b). This investigation identified this officer as Sgt. Pekera. At the same time, a second officer, who was described as a white male, 5'8" tall, with blonde hair, green eyes, and a chubby face, approached the passenger's side and attempted to open the door. The investigation identified the second officer as PO Landusky. § 87(2)(b) was nervous and kept asking what was going on. PO Landusky replied, "Shut up and open the door." § 87(2)(b) opened the door, when PO Landusky grabbed him from the shoulders and told him to turn around. PO Landusky then pinned him against the frame of the car. PO Landusky held § 87(2)(b) head down and turned sideways. § 87(2)(b) repeatedly asked, "What's wrong," and he informed PO Landusky that he was hurting him, but the officer just told him to, "Shut up." § 87(2)(b) had his arms behind his back, but was never handcuffed. § 87(2)(b) did not sustain any injuries and did not seek any medical treatment.

§ 87(2)(b) could not see or hear what was going on with his uncle, but then saw § 87(2)(b) exit the car. Sgt. Pekera escorted § 87(2)(b) to the rear of the car and § 87(2)(b) was also escorted to the rear, where the third officer, who was described as a white male, kept an eye on them. This officer was identified as PO Maric. At this time, PO Landusky searched the vehicle. Sgt. Pekera went to the police vehicle and checked § 87(2)(b)'s license. PO Maric requested § 87(2)(b) license and he provided it to

him. PO Maric only looked at the license and gave it back. Sgt. Pekera returned and gave § 87(2)(b) his license back. The men were then released without being issued a summons or being arrested. The officers never told them why they were stopped.

§ 87(2)(b) denied that § 87(2)(b) ever committed a vehicle infraction before being stopped. While § 87(2)(b) admitted he was verbally hostile with PO Landusky, he denied ever being physically resistant. As the men drove off, they realized that § 87(2)(b)'s \$1300 was missing from the center console. § 87(2)(b) did not see anyone take it. The men immediately went to the 34<sup>th</sup> Precinct stationhouse and filed this complaint.

**NYPD Statements:**

**Subject Officer: SGT. GREGORY PEKERA**

- *Sgt. Pekera, a § 87(2)(b)-old white male, is 5'10" tall, weighs 170 pounds, and has brown spiky hair and brown eyes. Sgt. Pekera also wears glasses.*
- *On January 12, 2010, Sgt. Pekera worked from 5:13 p.m. to 2:10 a.m. on January 13, 2010. He was assigned to the Manhattan North Auto Larceny Unit within the confines of the 33<sup>rd</sup> and 34<sup>th</sup> Precincts with PO Maric and PO Landusky. The officers were in uniform and in an unmarked blue Crown Victoria. Sgt. Pekera did not recall who the operator was, but added he sometimes drives.*

**Memo Book:**

Sgt. Pekera did not have any entries related to this incident in his memo book (encl. 14A-14B).

**CCRB Testimony:**

On May 4, 2010, Sgt. Gregory Pekera was interviewed at the CCRB (encl. 15A-15B). Sgt. Pekera did not recall this incident. Background details and photographs of § 87(2)(b) and § 87(2)(b) did not assist his recollection. Sgt. Pekera described his duties as targeting vehicle infraction and stolen vehicles. He did not recall conducting any vehicle stops or pointing his gun at anyone on the night in question. Sgt. Pekera added that PO Maric had an arrest at 12:17 a.m., but he did not have the location noted and did not recall where it was. A copy of the MISD report was shown to Sgt. Pekera, which highlights his tax number and name as running the name check of § 87(2)(b). Sgt. Pekera could not provide an explanation as to why his tax number was documented, but admitted that he often does his own name checks. Regardless, Sgt. Pekera insisted that he did not recall the incident.

**Subject Officer: PO JASON LANDUSKY**

- *PO Landusky, a § 87(2)(b)-old white male, 5'7" tall, weighs 195 pounds, and has brown hair and blue eyes.*
- *On January 12, 2010, PO Landusky had the same assignment as Sgt. Pekera. The officers were assigned to unmarked blue Crown Victoria, in which Sgt. Pekera was the operator and PO Landusky was the recorder.*

**Memo Book:**

PO Landusky did not have any entries related to this incident in his memo book (encl. 18A-18B).

**CCRB Testimony:**

On July 13, 2010, PO Jason Landusky was interviewed at the CCRB (encl. 19A-19B). PO Landusky did not recall this incident. Background information and photos of § 87(2)(b) and § 87(2)(b) were provided to PO Landusky, but did not assist his recollection.

**Subject Officer: PO MIROSLAV MARIC**

- PO Maric, a § 87(2)(b)-old white male, is 5'8" tall, weighs 220 pounds, and has brown hair and brown eyes.
- On January 12, 2010, PO Maric worked the same hours as Sgt. Pekera and PO Landusky; targeting auto related crimes.

**Memo Book:**

PO Landusky did not have any entries related to this incident in his memo book (encl. 16A-16B).

**CCRB Testimony:**

On June 24, 2010, PO Miroslav Maric was interviewed at the CCRB (encl.17A-17B). PO Maric did not recall this incident. Background details and photographs of § 87(2)(b) and § 87(2)(b) did not assist in his recollection. PO Maric reported having an arrest at 12:17 a.m. on West 177<sup>th</sup> Street for a suspended license. The arrestee was a black male. At 12:20 a.m., PO Maric was back at the 33<sup>rd</sup> Precinct stationhouse for meal.

**NYPD Documents**

***MISD Check and NYS Police Superintendent***

The MISD check and the NYS Police Superintendent (encl. 20A-20V) confirmed that § 87(2)(b) was pulled over by the NYPD. According to the results, on January 12, 2010, at 11:27 p.m., Sgt. Pekera of the Patrol Borough Manhattan North Task Force ran § 87(2)(b)'s license plate using his tax identification number. The results confirm that § 87(2)(b) was driving a 2003 black Chevy Impala with NYS license plate # § 87(2)(b).

***Patrol Borough Manhattan North Task Force Roll Call***

The roll call (encl. 21A-21G) confirmed that Sgt. Pekera supervised the auto larceny unit on the night of January 12, 2010.

***Patrol Borough Manhattan North Task Force Vehicle utilization log***

The vehicle utilization log (encl. 22) revealed that Sgt. Pekera was assigned vehicle # § 87(2)(b) which is a 2004 black Ford Crown Victoria with plate # § 87(2)(e), § 87(2)(b).

**Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of September 14, 2010, with regard to the incident.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5) or § 87(2)(b) (encl. 6).

#### **Subject Officer(s) CCRB History**

- Sgt. Pekera has been a member of the service for 13 years and there are four substantiated CCRB allegations against him (encl. 2A-2C).
  - In CCRB # 200701549, Sgt. Pekera was found guilty of searching a vehicle, frisking and improperly searching someone. Sgt. Pekera was also found guilty of property damage. He received command discipline A for the search of person and all of the other allegations were declined to prosecute.
- PO Landusky has been a member of the service for 5 years and there are no substantiated CCRB allegations against him (encl.3).
- PO Maric has been a member of the service for 7 years and has one substantiated CCRB allegation against him (encl. 4):
  - In CCRB # 200705149, PO Maric was found to have conducted an improper frisk. The NYPD did not impose any discipline.

#### **Conclusion**

#### **Identification of Subject Officers**

- Police documentation, such as the MISD check and the NYS Police Superintendent check confirm Sgt. Pekera's presence at the scene. Additionally, the roll call and memo books confirmed that PO Landusky and PO Maric were working with Sgt. Pekera on the date and time of the incident. § 87(2)(b)'s physical description of the subject officers matched Sgt. Pekera, PO Landusky and PO Maric § 87(2)(g)

#### **Investigative Findings and Recommendations**

**Allegation A-Abuse of Authority: Sgt. Gregory Pekera supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B-Force: Sgt. Gregory Pekera pointed his gun at § 87(2)(b)**

**Allegation C-Force: PO Jason Landusky used physical force against § 87(2)(b)**

**Allegation D-Force: Sgt. Gregory Pekera used physical force against § 87(2)(b)**

**Allegation E-Abuse of Authority: Sgt. Gregory Pekera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation F-Abuse of Authority: PO Jason Landusky searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) and § 87(2)(b) alleged that on January 12, 2010, at approximately 11:00 p.m., they were pulled over by Sgt. Pekera, PO Landusky and PO Maric. Upon arrival, Sgt. Pekera allegedly pointed his gun at § 87(2)(b) while PO Landusky forcefully removed § 87(2)(b) from the car. Sgt. Pekera also allegedly used force to pull § 87(2)(b) out of the car and then entered his car to remove the keys. PO Landusky allegedly searched § 87(2)(b)'s car, by looking through the car seats with a flashlight. As § 87(2)(b) and § 87(2)(b) waited for the officers inside their vehicle, § 87(2)(b) saw Sgt. Pekera open the trunk and look inside. Sgt. Pekera did not remove anything from the trunk and returned the car key and documents to § 87(2)(b). The officers then left without explaining why they were pulled over and did not issue them any summonses. All of the officers testified that they did

§ 87(2)(g)

§ 87(2)(g), §  
87(4-b)

Investigator: _____	Noemi Báez	September 17, 2010
Signature	Print	Date
Supervisor: _____	_____	_____
Title/Signature	Print	Date
Reviewer: _____	_____	_____
Title/Signature	Print	Date
Reviewer: _____	_____	_____
Title/Signature	Print	Date